

RECORDATION NO. 7597-B Filed & Recorded
OCT 13 1977-10 10 AM
INTERSTATE COMMERCE COMMISSION

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY
2 Hopkins Plaza
Baltimore, Maryland

October 12, 1977

RECORDATION NO. 7597-A Filed & Recorded

OCT 13 1977-10 10 AM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
WASHINGTON, D. C. 20423

Dear Sir:

Pursuant to the provisions of the Interstate Commerce Act, as amended, and the regulations of the Interstate Commerce Commission thereunder, Mercantile-Safe Deposit and Trust Company (the "Trust Company") transmits herewith for filing and recording two executed counterparts of each of the following documents, covering certain flat cars owned by Canat Limited ("Canat") and leased to Canadian National Railway Company ("CN"), under a Lease of Equipment dated as of the 28th day of June, 1974, between Canat and CN, previously filed and recorded on AUGUST 8, 1974, recordation no. 7597.

1. Equipment Agreement Trust dated as of September 15, 1977, between Canat and the Trust Company, as Trustee.
2. Assignment of Lease and Agreement dated as of September 15, 1977, by Canat accepted by the Trust Company, as Trustee, including the Consent and Agreement of CN, as Lessee.

The names and addresses and capacities in which the parties are acting are set forth in Schedule A hereto and a general description of the Equipment is set forth in Schedule B hereto.

Yours truly,

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY

by F H Gilbert
Assistant Corporate
Trust Officer

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Washington, D. C.

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INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of September 15, 1977 (hereinafter called the Assignment), by and between Canat Limited, a Delaware corporation (hereinafter called the Company) and Mercantile-Safe Deposit and Trust Company, as Trustee (hereinafter called the Trustee) under an Equipment Trust Agreement dated as of September 15, 1977 (hereinafter called the Equipment Trust Agreement), between the Trustee and the Company.

WHEREAS the Company, as Lessor, and Canadian National Railway Company, as Lessee (hereinafter called the Lessee), have entered into a Lease (as defined in the Equipment Trust Agreement), providing for the leasing by the Company to the Lessee of the Units (as defined in the Lease); and

WHEREAS, in order to provide security for the obligations of the Company under the Equipment Trust Agreement and as an inducement to the purchasers of the equipment trust certificates to be issued under the Equipment Trust Agreement to purchase said certificates, the Company has agreed to assign for security purposes its rights in, to and under the Lease to the Trustee;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed the parties hereto agree, subject to Section 4.03 of the Equipment Trust Agreement, as follows:

1. As security for the payment and performance of its obligations under the Equipment Trust Agreement, the Company hereby assigns, transfers and sets over unto the Trustee all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges and other benefits of the Company as Lessor under the Lease including without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease.

The Company agrees to cause all the Payments to be made directly to the Trustee at Baltimore, Maryland.

The Trustee will accept all Payments and all other payments pursuant hereto and will apply the same as follows: first, to or toward the payment of all amounts due and payable under the Equipment Trust Agreement by the Company on the date (or the next succeeding Business Day as defined in the Equipment Trust Agreement) such Payments or other payments are required to be paid pursuant to the Lease and the Trustee shall credit such Payments and such payments so applied to the amounts so due and payable or so to become due and payable; and second, so long as, to the actual knowledge of the Trustee, no Event of Default (as defined in the Equipment Trust Agreement) or event known to the Trustee which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and then be continuing, any balance of such Payments and such payments remaining shall be paid over to the Company by the Trustee. So long as, to the actual knowledge of the Trustee, an Event of Default or event which with notice or lapse of time or both, would constitute an Event of Default shall then be continuing, the Trustee shall not pay over any of the Payments or such payments pursuant hereto, but, during such continuance, shall apply all Payments and all such payments in a manner consistent with the provisions of the Equipment Trust Agreement. Anything in this Agreement to the contrary notwithstanding, no amounts shall be considered to

be due and payable by the Company under the Equipment Trust Agreement in the event that such amounts shall have been indefeasibly paid by the Lessee to the Trustee pursuant to the Lease, the Equipment Trust Agreement, this Assignment and/or the Lessee's Consent and Agreement annexed hereto.

2. The Assignment made hereby is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify any liability of the Company under the Lease, it being understood and agreed that notwithstanding such assignment or any subsequent assignment all obligations of the Company to the Lessee under the Lease shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company or persons other than the Trustee.

3. To protect the security afforded by this Assignment the Company agrees as follows:

(a) Faithfully to abide by, perform and discharge each and every obligation, covenant and agreement of the Lease by the Company to be performed; at the sole cost and expense of the Company (except as otherwise provided herein or by any of the instruments or agreements referred to herein or in the Equipment Trust

Agreement), to enforce or secure the performance of each and every obligation, covenant, condition and agreement contained in the Lease by the Lessee to be performed; without the written consent of the Trustee not to anticipate the rents under the Lease or to waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein; to hold any Payments received by the Company which are assigned and set over to the Trustee by this Assignment in trust for the Trustee and to turn them over to the Trustee forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) That should the Company fail to make any payment or to do any act as herein provided, then the Trustee, but without obligation so to do and without notice to or demand on the Company and without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security

hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers to pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, which shall be reimbursed to it by the Company.

4. The Company does hereby constitute the Trustee the Company's true and lawful attorney, irrevocably, with full power (in the name of the Company, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under to arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Trustee may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Equipment Trust Agreement,

the assignment made hereby and all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the Lease and the Payments shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Equipment Trust Agreement have each been duly authorized, and the Lease, this Assignment and the Equipment Trust Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms, (b) the Company has not executed any other assignment of the Lease and the Trustee's right to receive all payments under the Lease is free and clear of any and all liens, agreements, security interests or other encumbrances, imposed by the Company, prior to or pari passu with the interests of the Trustee, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Equipment Trust Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Equipment Trust Agreement on or prior to the date hereof and (e) the Lease and the Equipment Trust Agreement are in full force and effect and have not been cancelled and to the knowledge of the Com-

pany there has not occurred on or prior to the date hereof any Event of Default (as that term is defined in the Equipment Trust Agreement) or any event which with notice and/or lapse of time constitute such an Event of Default.

If an Event of Default (as defined in the Equipment Trust Agreement) shall occur and be continuing, the Trustee shall be entitled (i) to exercise all the rights, privileges and remedies available to the Lessor under the Lease and to the Trustee under the Equipment Trust Agreement and (ii) to do any acts which the Trustee deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or the Equipment Trust Agreement, or invalidate any act done hereunder.

7. The Company covenants and agrees with the Trustee that in any suit, proceeding or action brought by the Trustee under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Trustee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee

or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Trustee or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of the successive assignments or transfers.

8. The Company will from time to time execute all such financing statements and supplemental instruments and documents as the Trustee may from time to time reasonably request in order to confirm or further assure the assignment made hereby and the provisions hereof.

9. The Trustee may assign to any successor trustee appointed pursuant to Section 8.06 of the Equipment Trust Agreement or any co-trustee or separate trustee appointed pursuant to Section 8.09 thereof any of its rights under the Lease, including the right to receive any payments due or to become due to it from the Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all rights and privileges and be subject to all obligations of the Trustee hereunder.

10. The Company agrees that it will not, without the prior written consent of the Trustee, enter into any agreement amending, modifying or terminating the Lease and that any amendment, modification or termination thereof without such consent shall be void.

11. This Assignment shall be governed by the laws of the State of Delaware, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act of the United States, the applicable recording laws of Canada and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the markings of the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

12. The Company shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Trustee at 2 Hopkins Plaza, P. O. Box 2258, Baltimore, Maryland 21203, or at such other address as the Trustee shall designate.

13. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall consti-

tute one and the same instrument.

IN WITNESS WHEREOF, the Company has caused this instrument to be signed by an officer thereunto duly authorized, as of the date first above written.

CANAT LIMITED,

by

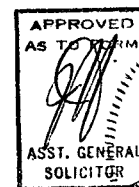
J. P. MacKinnon
President

[Corporate Seal]

Attest:

by

R. J. Fulk
Secretary



Accepted:

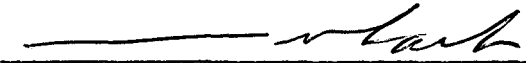
MERCANTILE-SAFE DEPOSIT and
TRUST COMPANY, as Trustee,

by

R. J. Fulk
Authorized Officer

PROVINCE OF QUEBEC,)
) ss.:
CITY OF MONTREAL,)

On this *5th* day of *October* 1977, before me personally appeared *D. Mackinnon*, to me personally known, who, being by me duly sworn, says that he is President of Canat Limited, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

My Commission expires

July 3, 1979

G. ERIC URQUHART
COMMISSIONER FOR OATHS
COMMISSAIRE À L'ASSERMENTATION
DISTRICT - MONTREAL

LESSEE'S CONSENT AND AGREEMENT

The undersigned, a corporation duly incorporated under the laws of Canada, the Lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment.

As an inducement to the purchasers and holders of the equipment trust certificates to be issued pursuant to an Equipment Trust Agreement (hereinafter called the Equipment Trust Agreement) dated as of September 15, 1977, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Trustee (hereinafter called the Trustee) and CANAT LIMITED (hereinafter called the Lessor), (a copy of which has been delivered to the undersigned) pursuant to which the Lessor is financing units of railroad equipment (hereinafter called the Units) being leased by the Lessor to the undersigned pursuant to the Lease, and in consideration of other good and valuable consideration, the undersigned agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter

called the Payments) due and to become due under the Lease in respect of the Units leased thereunder, directly to the Trustee, at 2 Hopkins Plaza, P.O. Box 2258, Baltimore, Maryland 21203 (or at such other address as may be furnished in writing to the undersigned by the Trustee); and, if the undersigned fails for any reason whatsoever to pay to the Trustee any Payments, it will pay to the Trustee, on the respective dates and times set forth in the Lease on which the Payments as specified to be due thereunder, sums equivalent to the Payments which the undersigned shall not theretofore have paid to the Trustee, it being hereby agreed that the undersigned's obligations to pay all the aforesaid Payments or sums equivalent to the Payments is absolute and unconditional;

(2) the Trustee shall be entitled to the benefits of, and to receive and enforce the performance of, all of the covenants to be performed by the undersigned under the Lease as though the Trustee were named therein as the Lessor.

(3) the payments or sum equivalent to the payments due hereunder shall not be subject to any right of set-off or counterclaim or other defense which the undersigned might have against the Lessor or otherwise, and the payment thereof to the Trustee shall be final and

shall not be subject to, and the undersigned hereby agrees to indemnify the Trustee against, any liens, charges or claims of any nature whatsoever (other than liens, charges or claims created or incurred by the Trustee not arising out of the transactions contemplated by the Equipment Trust Agreement, the Lease or the Assignment) resulting from a breach by the undersigned of its obligations under the Lease, prior to or pari passu with the right of the Trustee to apply such Payments or sums equivalent thereto, as provided in the Assignment;

(4) the Trustee shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(5) the Lease shall not, without the prior written consent of the Trustee, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof;

(6) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instru-

ments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Purchase Agreement (as defined in the Equipment Trust Agreement), the Assignment and/or the Equipment Trust Agreement and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof; and

(7) to the extent permitted by applicable law, it hereby waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of the courts of the United States or any state thereof, that its property is exempt or immune from execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper, or that the Lease, the Assignment or this Consent and Agreement or the subject matter of any thereof may not be enforced in or by such court.

The undersigned acknowledges that so long as (i) it shall not be in default under the Lease, (ii) it is complying with the provisions of this Consent and (iii) the Trustee is

entitled to apply the Payments as herein provided, it shall be entitled to the possession of the Units and to the use thereof by it or any affiliated or subsidiary corporation upon its or their lines of railroad or upon lines of railroad over which it or such other corporation has trackage or other operating rights or over which its railroad equipment or any such other corporation is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of the Lease and without in any way relieving it from any obligation or liability thereunder; otherwise the interests of the undersigned under the Lease shall be subject and subordinate to the interests and rights of the Trustee under the Equipment Trust Agreement.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

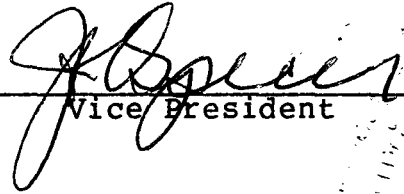
This Consent and Agreement, when accepted by the Trustee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of Canada and, for

all purposes, shall be construed in accordance with the laws thereof.

Dated as of September 15, 1977.

CANADIAN NATIONAL RAILWAY
COMPANY,

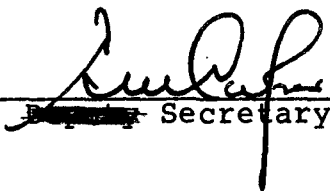
by

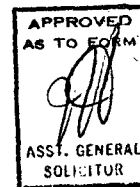

Vice President

[Corporate Seal]

Attest:

by

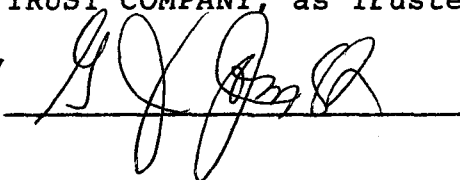

~~Secretary~~ Secretary



Accepted:

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Trustee,

by



ASSISTANT VICE PRESIDENT